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Legal Assistance Resource Center ♦ of Connecticut, Inc. ♦

44 Capitol Avenue, Suite 301 ♦ Hartford, Connecticut 06106
(860) 278-5688 x203 ♦ cell (860) 836-6355 ♦ fax (860) 278-2957 ♦ RPodolsky@LARCC.org

S.B. 94 -- Equal treatment of renters with mental disabilities

Housing Committee public hearing -- March 8, 2012

Testimony of Raphael L. Podolsky

<p>Recommended Committee action: APPROVAL OF THE BILL (with substitute language)</p>
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Existing Connecticut law has long required that the landlord of a building with five or more units cannot evict an elderly or disabled tenant without citing a cause (non-payment of rent, breach of the lease, nuisance, etc.). C.G.S. 47a-23c, however, defines disability to cover only blindness or "physical" disability. Since the statute was passed in 1980, the Connecticut Constitution has been amended to prohibit discrimination based on mental disability. In addition, our attitudes toward mental disability have changed, and the Americans with Disabilities Act and the state and federal Fair Housing Acts both prohibit discrimination and require reasonable accommodation for all persons with disabilities. Moreover, the distinction between "physical" and "mental" disabilities has always been murky, since most mental disabilities have a physical component (e.g., they can be treated with medication).

S.B. 94 recognizes that physical and mental disabilities should not be treated differently. In doing so, it conforms the statute to numerous other Connecticut statutes that apply to both physical and mental disability and to the Connecticut Constitution itself.

S.B. 94, however, fails to correct one other inequality in the wording of the existing statute. In regard to seniors, C.G.S. 47a-23c applies to seniors, whether they are viewed as the primary tenant or are living permanently in an apartment with a primary tenant who is a close relative. The existing statute appears at first glance to exclude disabled permanent household residents if they are not the primary tenant. The Supreme Court, however, has explicitly held that they are covered by 47a-23c because permanent occupants are also tenants. See O'Brien Properties, Inc. v. Rodriguez, 215 Conn. 367 (1990). We urge the Committee to correct this unnecessary linguistic distinction between disabled and elderly occupants.

We also suggest some other drafting changes, which are incorporated into the draft that appears on the second page of this testimony.

(Please see the reverse side for the proposed substitute draft.)

Proposed substitute language (in entirety -- no Section 2):

Section 1. Subdivision (1) of subsection (a) of section 47a-23c of the general statutes is repealed and the following is substituted in lieu thereof *(Effective October 1, 2012)*:

(a) (1) Except as provided in subdivision (2) of this subsection, this section applies to any tenant who resides in a building or complex consisting of five or more separate dwelling units or who resides in a mobile manufactured home park and who is either: (A) Sixty-two years of age or older, or whose spouse, sibling, parent or grandparent is sixty-two years of age or older and permanently resides with that tenant, ~~or~~ (B) ~~[blind, as defined in section 1-1f; or (C)~~ physically disabled, as defined in section 1-1f] a person with a physical or mental disability, as defined in subdivision (8) of section 46a-64b, or whose spouse, sibling, child, parent or grandparent is a person with such a disability and permanently resides with that tenant, but only if such disability can be expected to result in death or to last for a continuous period of at least twelve months.